IN THE HON'BLE HIGH COURT OF JUDICATURE AT JABALPUR

WRIT PETITION NO. 515 \1998

UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

Gend Lal Nirmalkar,
S/o Shri Raghunath Nirmalkar,
Aged about 51 years,
Proprietor - Bharat Beedi Company,
Resident of Ramsagar Para,
DHAMTARI
District :DHAMTARI (MP) ...PETITIONER

-VERSUS-

1. State of Madhya Pradesh,
Department of Labour,
Through it's Secretary,
Mantralaya, Vallabh Bhawan,
BHOPAL (MP)

2. The Assistant Labour Commissioner
and Competent Authority under the
Child Labour (Prohibition and
Regulation) Act, 1986,
Raipur Division,
RAIPUR (MP)

3. The District Magistrate & Collector,
RAIPUR (MP)

4. The Tahsildar,
DHAMTARI
District : DHAMTARI (MP) ...RESPONDENTS

PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA FOR THE ISSUANCE OF A WRIT IN THE NATURE OF CERTIORARI, MANDAMUS, PROHIBITION ETC. AND FOR ISSUANCE OF APPROPRIATE ORDER/DIRECTION

(53)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... WP 5185/98 ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	8.9.2005 Shri A.S. Geharwar, counsel for the petitioner. Shri Sunil Otwani, P.L. for the State. The main grievance raised by the petitioner in this petition is that the show cause/demand notices under Section 17 of the Child Labour (Prohibition & Regulation) Act, 1986 have been issued on 15.5.1997 asking the petitioner-firm to deposit a sum of Rs.20,000/- as compensation for employing one child labour namely Kumari Sulochana Parasram, whereas, no child labour was engaged by the petitioner in the establishment and the notices have been issued without hearing the petitioner. In the meantime, a challan has also been filed in the Court of learned Chief Judicial Magistrate, Raipur. The petitioner filed reply to the showcause notices and stated that impugned show cause notices have been issued without affording any opportunity of personal hearing to the effected person and on this ground alone notices are liable to be quashed. In similar matters i.e. W.P. No.4809/97 and W.P. No.927/97 between Amolchand Jain Vs. State the High Court of Madhya Pradesh, Jabalpur held that '*demands raised without affording opportunity of hearing to the person affected is unsustainable in law and quashed the order.*'	

(59)

XI-HC-78

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	It is admitted position that in the present case demand has been raised without affording opportunity of hearing to the petitioner, therefore, same is liable to be set aside. Accordingly, the impugned show cause notices [Annexure A-1 (a) & A-1 (b)] are hereby quashed. However, it would be open to the competent authority to hear the petitioner afresh, consider the contention of petitioner and thereafter, pass the order in accordance with law. The petitioner shall appear before the competent authority on 14th November, 2005 and thereafter the competent authority shall fix the date and after hearing the petitioner pass the order in accordance with law. With the direction and observation aforesaid, the petition stands disposed of. Certified copy as per rules. **Sd/-** **L.C. Bhadoo** **Judge**	